

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE ISMAEL RUIZ ZUNIGA,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:15CV35
	)	
FRANK PERRY,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before this court for review of the Recommendation filed on August 13, 2015, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 14.) In the Recommendation, the Magistrate Judge recommends that Petitioner's Motion to Amend (Doc. 9) be denied as futile, that Respondent's Motion for Summary Judgment (Doc. 5) be granted, that the Petition (Doc. 2) be dismissed, and that Judgment be entered dismissing this action. The Recommendation was served on the parties to this action on August 13, 2015 (Doc. 15). Petitioner timely filed objections (Doc. 16) to the Recommendation. In his objections, Petitioner has requested the appointment of counsel. However, Petitioner has not demonstrated good cause for the appointment of counsel, nor has he shown that justice requires the appointment of counsel. The court will deny Petitioner's request.

This court is required to “make a de novo determination of those portions of the [Magistrate Judge’s] report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions.” Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge’s Recommendation. This court therefore adopts the Recommendation.

**IT IS THEREFORE ORDERED** that the Magistrate Judge’s Recommendation (Doc. 14) is **ADOPTED**. **IT IS FURTHER ORDERED** that Petitioner’s Motion to Amend (Doc. 9) is **DENIED** as futile, that Respondent’s Motion for Summary Judgment (Doc. 5) is **GRANTED**, that Petitioner’s Petition under 28 U.S.C. § 2254 for writ of habeas corpus (Doc. 2) is **DISMISSED**, and that this action is **DISMISSED**.

**IT IS FURTHER ORDERED** that Petitioner’s request for appointment of counsel is **DENIED** for lack of good cause.

A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue

for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 2nd day of September, 2015.

  
United States District Judge